



Brownfield Redevelopment Program

**Missouri Department of Economic
Development**

Missouri Department of Natural Resources

IMPORTANT INFORMATION – PLEASE READ

To: DED Tax Credit Program Applicants
From: Sallie Hemenway, ED Operations Director
Date: August 30, 2005
Re: Tax Credit Issuance Fee

The 2005 legislative session provided authority (SB343 subsequently signed into law) to the Department of Economic Development to collect a fee of up to 2.5 percent of the value of the issuance of most tax credit programs. Programs exempted by statute and those where the fee is determined to be zero at this time are listed at the end of this memorandum.

The implementation of this fee will take effect on all applications received by the Department (and subsequently approved) after September 7, 2005. The fee shall require a payment of 2.5 percent of the requested amount of the issuance. The fee shall be payable prior to the issuance for deposit in the Economic Development Advancement Fund.

Applications for discretionary tax credit programs currently held by the Department pending the approval shall not be subject to the fee.

Pre-applications or applications for entitlement tax credit programs currently held by the department where hard construction commences by October 15, 2005 (as indicated by invoice or other source documentation) shall not be subject to the fee.

Applications for programs that may qualify annually for multiple year tax credit issuances shall be subject to the fee in the first year if the application or documentation is received after September 7, 2005. All on-going projects for these types of credits shall be subject to the fee in future years per this notice.

The purpose of the legislative authority is both to assist in off-setting administrative costs and to apply the funds in a manner that markets the state to increase future related business interests in Missouri.

Program administrators will provide successful applicants more detailed information regarding payment processes. Please do not hesitate to contact them individually or you may contact me at 573-522-4173 with any questions.

Programs exempt or with no 2.5 percent fee applied:

- Neighborhood Assistance Program
- Youth Opportunities Program
- Family Development Account
- Small Business Incubator
- Rebuilding Communities 1.5% Employee Credit
- Missouri Housing Development Commission- administered tax credit programs
- Missouri Development Finance Board-administered tax credit programs

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*** Brownfield Loan & Grant Programs are currently not available.**

For Further Information:

Missouri Department of Economic Development
Brownfield Program Administrator
P. O. Box 118
Jefferson City, MO 65102
573-522-8004
Fax: 573-522-9462
e-mail: cd@ded.mo.gov

A. General Information

- 1) **Purpose:** The purpose of the Brownfield Redevelopment Program is to provide incentives for the redevelopment of commercial/industrial sites abandoned or underutilized due to contamination caused by hazardous substances. The State of Missouri provides incentives to applicants that redevelop and remediate approved sites in accordance with voluntary clean up procedures established by the Missouri Department of Natural Resources. The program may be used to rehabilitate an existing building contaminated with hazardous substances, or to clear existing structures and build a new facility. The program may also be applicable for contaminated sites that have no existing structures.
- 2) **Eligible Project:** A project may be considered eligible if it meets the following criteria:
 - a) **Abandoned or Underutilized:** The property must have been abandoned for at least **3** years from the date of the application or underutilized (Real property of which less than 35% of the commercially usable space of the property and improvements thereon, are used for their most commercially profitable and economically productive use);
 - b) **Owned by a Governmental Agency or Endorsed by City:** The property may be owned by a governmental agency at the time an application is submitted for the determination of eligibility, or the property can be privately owned if endorsed by the city (or county if the property is not located in a city);
 - c) **Contamination:** The property must be contaminated by hazardous substances and accepted into the Voluntary Cleanup Program at the Department of Natural Resources;
 - d) **Eligible Business:** An eligible business (which is most businesses except housing) must occupy the majority of the property upon completion of the rehabilitation. The project may be a mixed-use facility (residential and commercial), but the state economic impact will be based only on the commercial operations.
- 3) **Incentives:** This program is structured to provide tax and financial incentives that would facilitate a fair return on investment to the redeveloper. The redeveloper could be a business that will own the facility for its own operations, or it may be an owner who will lease space in the facility to others. The incentives to the owner (or a lessee) for eligible projects may include one or more of the following:
 - a) The **“Remediation” Tax Credits**, which can reimburse the applicant for up to 100% of all eligible capital and operating costs of the remediation of hazardous substances. The owner must demonstrate the credits are the least amount necessary for the project to occur and are limited to the net state economic benefit of the eligible project.
 - b) The **Brownfield Tax Benefits**, which provide for:
 - Income tax credits of up to \$1300 per new job (each year for 1-10 years);

- Income tax credits based on approximately 2% (each year for 1-10 years) of new qualified investment; and,
 - Exemption of up to 50% of taxable income attributable to the eligible project;
 - Exemption of up to 100% for up to 15 years of local property tax for improvements to real property.
- c) **Loans** up to \$1 million for the redevelopment of the eligible project or the remediation of hazardous substances.
- d) **Guarantees** up to \$1 million for loans made by private lenders to an owner for the redevelopment of the eligible project or the remediation of hazardous substances.
- e) **Public Infrastructure Grants** up to \$1 million to a public entital for public capital improvements necessary to support the eligible project; and,
- f) **Due Diligence Matching Grants** up to \$100,000 or 50% of eligible costs to a public entity, whichever is less, for the feasibility studies, cost estimates, and other due diligence for an eligible project.
- 4) **Basis for Approval of Eligible Projects:** The remediation tax credits, loans, guarantees, and infrastructure grants will be limited to the lesser of the least amount necessary for the project to occur or the positive net state economic impact. Consideration will be given for a project's potential for enhancing the redevelopment of nearby blighted property. Other entitlement tax credits, such as the Historic Rehabilitation Tax Credit, will be included in the calculation of economic benefit as a state cost.

The positive net state economic impact is the benefits (new state taxes caused by the project) less the incentives provided (tax credits, loans, grants, etc.). Other entitlement tax credits, such as the Historic Rehabilitation Tax Credit, will be included in this calculation as a state cost.

- 5) **Employment Conditions:** The eligible project is projected to create at least ten new jobs, or retain twenty-five jobs, or combination thereof, with each job providing not less than an average of thirty-five hours of employment per week. When determining a combination of new and retained jobs for eligibility purposes, a retained job will be equal to forty percent (40%) of a new job. The total must be equal to ten jobs.

A business with 20 retained jobs and 5 new jobs would provide a combination with a total of 13 jobs. (20 retained jobs X 40% = 8 jobs; 8 + 5 new jobs = 13 total jobs for eligibility purposes.)

- 6) **Maximum Tax Credits or Loan/Guarantee Funds:** Loan/guarantee/grant funds and remediation tax credits allowable for each eligible project are limited to the net state economic impact of the project, not to exceed the least amount of state

incentives necessary to cause the project to occur. The direct loan, loan guarantee or grant funds shall not exceed a total of \$1 million per project.

- 7) **Approval:** The Missouri Department of Economic Development will review applications to determine eligibility for participation in the Brownfield Program. The Department of Natural Resources will review applications to determine eligibility under the Voluntary Cleanup Program. Upon the approval of a Voluntary Cleanup Plan by DNR, the Department of Economic Development may determine the amount of available financial assistance based upon the application submitted to DED. The owner must also obtain any permits or rezoning necessary from the appropriate state or local governmental agency.
- 8) **Application:** Submission of an application for tax credits, loan, guarantee, or grant funds may be made at any time prior to beginning of project to: Redevelopment Section, Missouri Department of Economic Development, P.O. Box 118, Jefferson City, MO 65102. Telephone # 573-522-8004 or Fax # 573-522-9462. Applications may also be e-mailed (in Microsoft Word) to: mlinder@ded.state.mo.us, with the signed forms sent by regular mail.
- 9) **Authorization:** This program is authorized by Section 447.700 to 447.718, RSMo, as amended. In the event there is any conflict between the statute and these guidelines, the statute shall prevail over guidelines.

B. APPLICATION PROCESS

Please use the Application Checklist included in the back of this booklet when preparing an application.

- 1) **Eligibility Determination:** A prospective owner or governmental agency will submit Section A of the Application Checklist and Exhibits A, B, E, and F to determine whether the project is eligible. When possible, an applicant should also submit Sections B, C, D, E and/or F of the Application Checklist (whichever is relevant for specific incentives that are requested) at this time. The owner must submit the Voluntary Cleanup Program application to the Department of Natural Resources for the determination of eligibility into the VCP program.
- 2) **DED/DNR Approval:** DNR will enter into an agreement with the owner regarding oversight of the remediation activities subject to the Voluntary Cleanup Program. Upon DNR's approval of a Remedial Action Plan and after due diligence has been conducted, DED will require the submission of three bids for the implementation of the remedial action plan. *Only hazardous substances as defined in sections 260.565 to 260.575, RSMo are eligible to receive remediation tax credits.*
- 3) **Due Diligence Grant:** If eligible, the governmental agency may submit Section B to request partial funding for the due diligence involved in determining the feasibility of redeveloping the proposed project. Upon approval, DED would submit a grant agreement to the governmental agency conducting the due diligence. The grant agreement will outline eligible costs and procedures for reimbursement of those eligible costs.
- 4) **Negotiate Purchase:** If the prospective purchaser decides to proceed with the eligible project, they may negotiate a purchase price with the governmental agency that owns the eligible project (or private owner), discuss the process of rezoning and permits, and apply for loans from local lenders for the remediation/rehabilitation of the abandoned property.
- 5) **Incentives Approval:** Upon the determination that financial incentives are needed to cause the remediation/rehabilitation to proceed, the department may approve Remediation tax credits, Brownfield tax benefits, a loan, loan guarantee, and/or an infrastructure grant after the submission of the relevant portions of the application.
- 6) **Construction:** Upon approval by the lender, DED, DNR, and the appropriate local agency, the remediation and rehabilitation work may begin.
- 7) **Remediation Tax Credits:** After approval by DED and meeting program requirements, no more than seventy-five percent (75%) of earned remediation tax credits may be issued when the remediation costs are paid.
- 8) **Completion:** DNR will issue a "Certificate of Completion" or covenant not to sue when the remediation work is successfully completed. At this time DED can issue the remaining remediation tax credits. Brownfield tax credits will be issued upon the creation of the required jobs and qualified investment in the facility as outlined in the statute.

C. DEFINITIONS

- 1) **“Abandoned Property”**: Real property previously used for, or which has the potential to be used for, commercial or industrial purposes. The property may have been acquired by a governmental agency through donation, purchase, tax delinquency, foreclosure, default or settlement, including conveyance by deed in lieu of foreclosure; or a privately owned property endorsed by the city, or county if the property is not in a city, for inclusion in the program which will be transferred to a person other than the potentially responsible party as defined in chapter 260, RSMo, and has been vacant for a period of not less than three years from the time an application is made to DED.
- 2) **“Allowable costs”**: Costs related to funding from loan or guarantee funds for an eligible project, restricted to the following:
 - a) Acquisition of the abandoned property by the owner and other adjacent real property necessary for the eligible project;
 - b) Relocating any occupants in the immediate area of the eligible project by the owner or governmental agency as necessary to implement the eligible project. Such relocation must be in accordance with standards established by the appropriate local agency;
 - c) Constructing, reconstructing, rehabilitating, renovating, enlarging, improving, equipping or furnishing the abandoned property by the owner;
 - d) Clearance, preparation, backfill, and demolition within the eligible project area by the owner or a governmental agency;
 - e) Supplementing and relocating public capital improvements or other utilities owned by persons other than governmental entities;
 - f) Architectural, engineering and legal service fees and expenses related to the eligible project incurred by the owner or a governmental agency;
 - g) The costs of conducting remediation activities as part of a voluntary remediation authorized by DNR;
 - h) The reimbursement of moneys advanced or applied by any governmental agency or other person for allowable costs (incurred after the date of DED’s approval of the eligible project), excluding unpaid state, local or federal taxes due on the abandoned property; and,
 - i) Designs, plans, specifications, surveys, studies and estimates of costs related to an eligible project; and,
 - j) The demolition and reconstruction of any building or structure which is not the object of remediation as defined in section 260.565, RSMo, but which is located on the site of an abandoned or underutilized property approved for financial assistance pursuant to sections 447.702 to 447.708, provided that such demolition is contained in a redevelopment plan approved by the director of DED and the municipal or county government having jurisdiction in the area in which the project is located.

Ineligible costs include “soft costs” (non-fixed assets) not specified above, including inventory of an operator or lessee, or operating expenses of a governmental agency.

- 3) **“DED”**: Missouri Department of Economic Development, administrator of the Brownfield Redevelopment program.
- 4) **“DNR”**: Missouri Department of Natural Resources, administrator of the Voluntary Cleanup Program.
- 5) **“Eligible Business”**: A revenue creating enterprise located at the eligible project involved in industry; commerce, distribution, and research, or any combination thereof, the operation of which will meet the employment conditions of the Brownfield Redevelopment Program. Businesses classified in SIC’s (“Standard Industrial Classification Manual” as prepared by the Office of Management and Budget, Executive office of the President.) 01 through 89, except 8733, are included. Ineligible businesses include residential facilities (owner occupied and rental), facilities owned by a governmental agency for its internal operations (except for revenue producing enterprises), religious-based organizations or facilities, facilities for political organizations, or others as determined by DED at its discretion.

If an eligible project will contain some eligible businesses and some ineligible businesses, it may qualify for financial assistance if at least one of the eligible businesses will have at least 10 new jobs or 25 retained jobs. However, the Net State Economic Benefit would be calculated based only upon those businesses that qualify as eligible.

- 6) **“Eligible Project”**: The abandoned or underutilized property to be acquired, expanded, remodeled, rehabilitated or modernized for an eligible business, whether the eligible business is operated by an operator or a lessee. The eligible project must include voluntary remediation of hazardous substances conducted pursuant to sections 260.565 to 260.575, RSMo, and the obligations of the prospective owner and the governmental agency shall be defined in a written agreement signed by both parties. The eligible project, when completed, shall be operated in compliance with all applicable federal, state and local environmental statutes, regulations and ordinances. Any property immediately adjacent to any abandoned or underutilized property may also be an “eligible project”.
- 7) **“Eligible Remediation Costs”**: Materials, supplies, equipment, labor, professional engineering, consulting and architectural fees, permitting fees and expenses, and direct utility charges for performing the voluntary remediation activities for the pre-existing hazardous substance contamination and releases. Also included may be the costs of performing operation and maintenance of the remediation equipment at the facility beyond the year (limited to a time period specified by DED) in which the systems and equipment are built and installed at the facility. Ineligible costs for Remediation tax credits include, but are not limited to, interest, legal fees, and others not specified above. Any costs incurred prior to DED’s approval of the amount of Remediation tax credits are ineligible.

Demolition of walls or other structures to remediate hazardous substances on the property maybe an eligible cost, but the reconstruction or rebuilding of those structures is not an eligible cost. Also, the removal and disposal of asbestos shingles are acceptable remediation costs, but the replacement of the roof is not.

- 8) **“Financial assistance”**: Direct loans, loan guarantees, and grants from the Brownfield fund; or Remediation tax credits or Brownfield tax benefits, or abatements.
- 9) **“Full-time basis”**: Employees of an operator or lessee working an average of no less than thirty-five hours per week (on a non-seasonal basis).
- 10) **“Governmental action”**: Any action by a state, county or municipal agency relating to the establishment, development or operation of an eligible project that the governmental agency has authority to take or provide for the purpose under law, charter or ordinance, including but not limited to, actions relating to contracts and agreements, zoning, building, permits, acquisition and disposition of property, public capital improvements, utility and transportation service, taxation, employee recruitment and training, and liaison and coordination with and among governmental agencies.
- 11) **“Governmental Agency”**: The state, county and municipality and any department, division, commission, agency, institution or authority, including a municipal corporation, township, and any agency thereof and any other political subdivision or public corporation; the United States or any agency thereof; any agency, commission or authority established pursuant to an interstate compact or agreement and any combination of the above.
- 12) **“Hazardous Substances”**: (From Section 260.565(1), RSMo): Any hazardous substance specified in the Comprehensive Environmental Response, Compensation, and Liability Act, 42 USC sections 9601 (14) (A-F), as amended, and any hazardous waste as defined in section 260.360 or any rules promulgated under sections 260.350 to 260.480, RSMo. Some substances may not qualify as “hazardous” under the Voluntary Cleanup Section. Questions should be directed to the DNR’s Voluntary Cleanup Program at (573) 526-8913.
- 13) **“Least Amount Necessary to Cause the Project to Occur”**: Sections 447.702.1(2), 447.704.1(2), 447.708.3, RSMo indicate that the loans, loan guarantees, and remediation tax credits shall be the “least amount necessary to cause the project to occur.” As such, the entity to receive a loan, loan guarantee, or remediation tax credits must demonstrate that the projected internal rate of return is below a market rate for comparable projects without such incentives, and the Brownfield incentives will provide only up to a market rate. Market rate must be demonstrated to DED as a pre-tax internal rate of return; however, risk and return factors will be considered. The return should be demonstrated over a period of 5-10 years. Other State incentives should not be included as equity in this calculation.
- 14) **“Net State Economic Benefit”**: The present value of new state tax revenues projected to be caused by the eligible project over a period of 8 years from the start of the project, discounting the amount of incentives provided for the eligible project,

the negative impact of the eligible project to competing local businesses, and the new public costs associated with the eligible project. The economic benefit will be determined by DED using the IMPLAN or REMI models (or other acceptable models), which factors the amount of new payroll, the amount of new capital investment, purchases of Missouri made machinery/equipment or inventory, and the type of business. Other entitlement tax credits, such as the Historic Rehabilitation Tax Credit, will be included in this calculation as a state cost.

- 15) **“New Job”**: A person employed in connection with the eligible business on a full-time basis (after the approval of DED for the incentives of this program) and not previously employed by the taxpayer or a related taxpayer within the twelve-month period immediately preceding the time the person was employed by that taxpayer to work at, or in connection with, the eligible project on a full-time basis. “New job” does not include full-time equivalents or seasonal employees.
- 16) **“New Qualified Investment”**: The value of real and depreciable tangible personal property which are used at or in connection with the eligible project during the tax period the credits are being claimed. New qualified investment shall not include small tools (portable and hand held), supplies, working capital, and inventory. Trucks, truck-trailers, truck semi-trailers, rail and barge vehicles and other rolling stock for hire, track, switches, barges, bridges, tunnels and rail yards and spurs shall not constitute new qualified investment. The total value of such property during such taxable year shall be:
 - a) Its original cost if owned by the taxpayer; or
 - b) Eight times the net annual rental rate, if leased by the taxpayer. The net annual rental rate shall be the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals. The new qualified investment shall be determined by dividing by twelve the sum of the total value of such property on the last business day of each calendar month of the taxable year. If the new business facility is in operation for less than an entire taxable year, the new qualified investment shall be determined by dividing the sum of the total value of such property on the last business day of each full calendar month during the portion of such taxable year during which the eligible business was in operation by the number of full calendar months during such period;
- 17) **“Owner”**: The titleholder of the abandoned property on which the eligible project remediation will occur. The owner may be a developer, an operator, or a governmental agency.
- 18) **“Operator”**: An owner that will be conducting eligible business operations in an eligible project.
- 19) **“Person”**: Any individual, firm, partnership, association, limited liability company, corporation or governmental agency, and any combination thereof.
- 20) **“Project Facilities”**: Buildings, structures and other improvements and equipment and other property or fixtures, excluding small tools, supplies and inventory, and any one, part or combination of the above, comprising all or part of, or serving or being incidental to, public capital improvements.

21) **“Public capital improvements”**: Capital improvements that a governmental agency owns and maintains, including but not limited to, highways, roads, streets, electrical, gas, water and sewer facilities, railroad and other transportation facilities, and air and water pollution control and solid waste disposal facilities. Ineligible costs would include administrative facilities or operating expenses; facilities owned or operated by a private entity; vehicles, other personal property, or inventory, except for equipment related to the operation of a public facility such as a sewer or water treatment facility. Costs incurred prior to DED’s approval are ineligible.

22) **“Related Taxpayer”**: Any of the following:

- a) A corporation, partnership, trust or association controlled by the taxpayer;
- b) An individual, corporation, partnership, trust or association in control of the taxpayer; or
- c) A corporation, partnership, trust or association controlled by an individual, corporation, partnership, trust or association in control of the taxpayer.

“Control of a corporation” shall mean ownership, directly or indirectly, of stock possessing at least fifty percent of the total combined voting power of all classes of stock entitled to vote.

“Control of a partnership or association” shall mean ownership of at least fifty percent of the capital or profits interest in such partnership or association;

“Control of a trust” shall mean ownership, directly or indirectly, of at least fifty percent of the beneficial interest in the principal or income of such trust; ownership shall be determined as provided in section 318 of the U.S. Internal Revenue Code.

23) **“Retained Jobs”**: A person previously employed by the taxpayer, or related taxpayer, at a closed Missouri facility similar to the eligible project. The closing must have occurred prior to the end of the tax period in which the credits are earned, and the person must have been employed by the taxpayer within the tax period immediately preceding the time of his/her employment at the eligible project.

The owner or lessee shall provide DED with a written statement explaining the reason for discontinuing operations at the closed facility. The statement shall include a comparison of the activities performed at the closed facility prior to the date the facility ceased operating to the activities performed at the eligible project, and a detailed account describing the need and rationale for relocating to the eligible project. If DED finds the relocation to the eligible project significantly impaired the economic stability of the area in which the closed facility was located, or that such move was detrimental to the overall economic development efforts of the state, DED may deny the taxpayer's request to claim tax benefits.

24) **“Taxpayer”**: An individual, proprietorship, or corporation, described in Section 143.441 or 143.471, RSMo, or partnership subject to the tax imposed by Chapter 143, RSMo.

- 25) **Underutilized:** Real property of which less than thirty-five percent (35%) of the commercially usable space of the property and improvements thereon, are used for their most commercially profitable and economically productive use.
- 26) **“Voluntary remediation”:** An action to remediate hazardous substances pursuant to sections 260.565 to 260.575, RSMo, as approved by DNR.

D. DETERMINATION OF INCENTIVES

- 1) **Brownfield Tax Benefits:** Operators or lessees locating in an approved eligible project may be allowed to claim 1-10 years of Brownfield tax benefits. Brownfield tax benefits are limited to the net state economic impact.

Example – Brownfield Tax Benefits: A company has been approved for a Brownfield Project, and will create 200 new jobs, and has \$10 million in new qualified investment at the eligible business. The amount of Brownfield tax credits earned for the new jobs would be \$100,000 to \$260,000/year, and the amount of tax credits earned for the new qualified investment would be \$213,400/year.

- 2) **Remediation Tax Credits:** The amount must be the “least amount necessary to cause the project to occur.” The remediation tax credits will be limited to the net state economic impact and the Eligible Remediation Costs. DED will only consider increasing the approved Remediation tax credit amount if documentation can be provided to reflect the detection of additional hazardous substances. Remediation of the additional contamination must not have begun before DED’s approval. However, the increased amount can not exceed the net state economic impact analysis.

Remediation that is performed prior to receipt of a written authorization for remediation tax credits from DED will not be eligible for tax credits and may jeopardize the project's overall eligibility for the program.

Up to seventy-five percent (75%) of Remediation tax credits may be issued to the applicant when the costs are paid and the remaining percentage when the Department of Natural Resources provide a “Certificate of Completion” letter or covenant not to sue.

- 3) **Loan Guarantee or Loan Funding:** In the event a sufficient amount of funds cannot be obtained from private sources to complete the eligible project, DED may provide a lender with a partial guarantee of a loan, or if no lender will provide a loan even with a guarantee, DED may provide assistance in the form of a direct loan. The limit for either the guarantee or the direct loan is \$1 million per eligible project, or the net state economic impact, whichever is less. State prevailing wage must be paid to any contractor if DED’s loan funds are used to pay remediation or rehabilitation expenses.

4) Grant Funding:

- a) **Due Diligence Incentive Match:** As an incentive for a prospective owner to purchase a Brownfield property from a government entity, DED may provide a 50% matching grant (up to \$100,000) to a governmental agency for the purposes of feasibility studies, environmental review, and cost estimates. The remaining 50% may be funded by the prospective owner, a governmental agency, or other resources, so long as the governmental agency retains ownership of the work product. (See Section I5 for further details.)
- b) **Eligible Project Costs Funding:** In the event the owner can demonstrate the inability to finance the entire amount of public capital improvements of the eligible project, DED may provide a grant to a governmental agency up to \$1 million (less

any funds provided for due diligence grants, loans or loan guarantees for the same eligible project). State prevailing wage must be paid to any contractor if DED makes a grant to a governmental agency for public capital improvements.

- 5) **Projected State Economic Benefit:** The total amount of state funding, tax credits, or tax exemptions for each eligible project shall be limited to the projected state economic benefit of the eligible project. DED may consider the direct and indirect economic benefits projected to be created by the eligible project.
- 6) **Repayment:** In the event the owner sells the abandoned or underutilized property within a five-year period after the receipt of remediation tax credits, grants, loans or loan guarantee subject to sections 447.700 to 447.718 RSMO, the owner shall repay a portion of the tax credits and grant funds provided based on the percentage of the owner's investment for the project to the department of economic development's total financial assistance, upon achieving an annual internal rate of return of twenty-five percent. The internal rate of return calculation shall be documented by the owner's capital gains tax calculation. Owner investment is equity and debt for the eligible project.

In the event the owner sells the property to a related taxpayer, the calculation of a possible repayment will continue for the 5-year period. This provision is found in section 447.701.

E. REMEDIATION TAX CREDITS

- 1) **Approval:** DED, with the approval of the Department of Natural Resources, may grant Remediation tax credits to the applicant of an eligible project. The eligible project may be redeveloped by a private entity or a governmental agency. The approval is based on the “least amount necessary to cause the project to occur,” and limited to the net state economic impact and the actual amount of Eligible Remediation Costs. The project must be projected to create at least ten new jobs or twenty-five retained jobs, or combination thereof, as determined by DED. The eligible project must operate in compliance with applicable environmental laws and regulations requirements, including permitting and registration requirements, of this state as well as the federal and local requirements.
- 2) **DED Review of Remediation Cost:** Upon the approval of a remedial action plan by the Voluntary Cleanup Program at DNR, DED will require the owner to submit three bids for the implementation of the remedial action plan from a contractor that is not related to the owner.
- 3) **Eligible Costs for Remediation Tax Credits:** The Remediation tax credits may be for up to 100% (as determined by DED) of the costs incurred after the date of DED’s approval of Eligible Remediation Costs. Remediation tax credits may only be provided for costs related to the remediation of **hazardous substances** pursuant to sections 260.565 to 260.575, RSMo.
- 4) **Ineligible Costs:** The Remediation tax credits shall not include any costs associated with ongoing operational environmental compliance at the facility or remediation costs arising out of spills, leaks, or other releases arising out of the ongoing business operations of the facility by the owner or a lessee.

<p>Remediation that is incurred or performed prior to receipt of a written authorization for remediation tax credits from DED will not be eligible for tax credits and may jeopardize the project's overall eligibility for the program.</p>

- 5) **Time Period:** The costs of performing the voluntary remediation activities over a period not in excess of four tax years following the taxpayer's tax year in which the system and equipment were first put into use at the eligible project are eligible, provided the remediation activities are the subject of a plan submitted to and approved by the Department of Natural Resources pursuant to the Voluntary Cleanup Program, sections 260.565 to 260.575, RSMo.
- 6) **Issuance of Remediation Tax Credits:** Taxpayers claiming the remediation tax credit must file all applicable tax credit applications, forms and schedules prescribed by DED during the taxpayer’s tax period immediately after the tax period in which the eligible project was first put into use, or during the taxpayer’s tax period immediately after the tax period in which the voluntary remediation activities were performed.

No more than seventy-five percent of earned remediation tax credits may be issued when the remediation costs are paid, and the remaining percentage may be issued when the Department of Natural Resources issues a “Certificate of Completion”

letter or covenant not to sue following completion of the voluntary remediation activities.

- 7) **Length of Time to Use Remediation Tax Credits:** The remediation tax credit may be taken in the same tax year in which the tax credits are received or may be taken over a period not to exceed twenty years. The project facility shall otherwise comply with the employment conditions.
- 8) **8. Taxes Applicable to the Credits:** The Remediation tax credits shall be used to offset the tax imposed by chapter 143, RSMo (corporate and personal income tax), excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or the tax otherwise imposed by chapter 147, RSMo (corporation franchise tax), or the tax otherwise imposed by chapter 148, RSMo (financial institution tax).
- 9) **Termination, Suspension, or Revocation of Tax Credits:** DED may terminate, suspend or revoke the tax credits and exemptions described in this program if the eligible project facility fails to continue to meet the conditions set forth in these guidelines. In making such a determination, DED shall consider the severity of the condition violation, actions taken to correct the violation, the frequency of any condition violations, and whether the actions exhibit a pattern of conduct by the taxpayer (owner or lessee). DED shall also consider changes in general economic conditions and the recommendation of the Department of Natural Resources concerning the severity, scope, nature, frequency, and extent of any violations of the environmental compliance conditions. The qualified project facility owner or operator may appeal the decision regarding termination, suspension or revocation of any tax credit or exemption in accordance with the procedures outlined in subsections 4 to 6 of section 135.250, RSMo.
- 10) **Recapture:** In the event the owner sells the abandoned or underutilized property within a five-year period after the receipt of remediation tax credits, grants, loans, or loan guarantee, subject to section 447.700 to 447.718, the owner shall repay a portion of the tax credits and grant funds provided based on the percentage of the owner's investment for the project to the department of economic development's total financial assistance, upon achieving an annual internal rate of return of twenty-five percent. The internal rate of return calculation shall be documented by the owner's capital gains tax calculation. Owner investment is equity and debt for the eligible project.
- 11) **Maximum Tax Credits:** The amount of Remediation tax credits is limited to the lesser of:
 - a) The amount necessary to induce the owner to proceed with the eligible project (See Section C13);
 - b) The Net State Economic Benefit (See Section C14); or
 - c) Eligible remediation costs.
- 12) **Transferability of Remediation Tax Credits:** The recipient may assign, sell or transfer, in whole or in part, the Remediation tax credits.

To perfect the transfer, the assignor (person selling the tax credits) shall provide written notice to DED of the assignor's intent to transfer the tax credits to the assignee, the date the transfer is effective, the assignee's name, address and the assignee's tax period and the amount of tax credits to be transferred. The assignee shall provide written notice to DED specifying the number of consecutive tax periods the transferred tax credits are to be claimed; except that, the number of tax periods during which the assignee may subsequently claim the tax credits shall not exceed twenty tax periods, less the number of tax periods the assignor previously claimed the credits before the transfer occurred.

13) **Distribution of Tax Credits:** For the purpose of the state tax benefits described in this section, in the case of a corporation described in section 143.471, RSMo, or partnership, in computing Missouri's tax liability, such state benefits shall be allowed to the following:

- a) The shareholders of the corporation described in section 143.471, RSMo;
- b) The partners of the partnership; and shall be apportioned to the entities described in proportion to their share of ownership on the last day of the taxpayer's tax period.

F. DEMOLITION TAX CREDITS

- 1) **Approval:** DED, with the approval of the Department of Natural Resources, may grant Demolition tax credits to the applicant of an eligible project. This approval is at the discretion of DED and limited to the net state economic impact. The project must be projected to create at least ten new jobs or twenty-five retained jobs, or combination thereof, as determined by DED.

Any costs incurred prior to DED's approval will be ineligible for demolition tax credits and may jeopardize the overall eligibility of the project into the Brownfield program.

- 2) **DED Review:** DED will require the applicant to submit estimates for the cost of demolition from a contractor not related to the applicant. The applicant must also submit a copy of the redevelopment plan approved by the municipal or county government for DED review and approval. This redevelopment plan must include the demolition as a part of the plan. Any demolition costs incurred prior to the approval of DED will not be eligible for tax credits.
- 3) **Issuance of Demolition Tax Credits:** Taxpayers claiming the demolition tax credit must file all applicable tax credit applications, forms, and schedules prescribed by DED.
- 4) **Length of Time to Use Demolition Tax Credits:** The demolition tax credit may be taken in the same tax year in which the tax credits are received or may be taken over a period not to exceed twenty years. The project facility shall otherwise comply with the employment conditions.
- 5) **Taxes Applicable to the Credits:** The Demolition tax credits shall be used to offset the tax imposed by chapter 143, RSMo (corporate and personal income tax), excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or the tax otherwise imposed by chapter 147, RSMo (corporation franchise tax), or the tax otherwise imposed by chapter 148, RSMo (financial institution tax).
- 6) **Maximum Demolition Tax Credits:** The maximum amount of demolition tax credits will be limited to the lesser of:
 - a) The amount necessary to induce the owner to proceed with the eligible project;
 - b) The net state economic benefit (see Section C14)
 - c) Qualified demolition costs (those costs approved by DED before work has begun).
- 7) **Termination, Suspension, or Revocation of Tax Credits:** DED may terminate, suspend or revoke the tax credits and exemptions described in this program if the eligible project facility fails to continue to meet the conditions set forth in these guidelines. In making such a determination, DED shall consider the severity of the condition violation, actions taken to correct the violation, the frequency of any condition violations, and whether the actions exhibit a pattern of conduct by the taxpayer (owner or lessee). DED shall also consider changes in general economic conditions and the recommendation of the Department of Natural Resources concerning the severity, scope, nature, frequency, and extent of any violations of the

environmental compliance conditions. The qualified project facility owner or operator may appeal the decision regarding termination, suspension or revocation of any tax credit or exemption in accordance with the procedures outlined in subsections 4 to 6 of section 135.250, RSMo.

- 8) **Recapture:** In the event the owner sells the abandoned or underutilized property within a five-year period after the receipt of remediation tax credits, grants, loans, or loan guarantee, subject to section 447.700 to 447.718, the owner shall repay a portion of the tax credits and grant funds provided based on the percentage of the owner's investment for the project to the department of economic development's total financial assistance, upon achieving an annual internal rate of return of twenty-five percent. The internal rate of return calculation shall be documented by the owner's capital gains tax calculation. Owner investment is equity and debt for the eligible project.
- 9) **Transferability of Demolition Tax Credits:** Demolition tax credits are not transferable. They cannot be assigned, sold, or transferred to another party.
- 10) **Distribution of Tax Credits:** For the purpose of the state tax benefits described in this section, in the case of a corporation described in section 143.471, RSMo, or partnership, in computing Missouri's tax liability, such state benefits shall be allowed to the following:
 - a) The shareholders of the corporation described in section 143.471, RSMo;
 - b) The partners of the partnership; and shall be apportioned to the entities described in proportion to their share of ownership on the last day of the taxpayer's tax period.

G. BROWNFIELD TAX BENEFITS

- 1) **Tax Benefits:** For eligible projects, which meet the following criteria, DED may provide a “taxpayer” with Brownfield tax benefits (which includes income tax credits, a 50% income tax exemption). However, in order to receive Brownfield tax benefits, a local government must provide either real property tax abatement of at least 50% for a minimum of 10 years or tax increment financing (TIF). The project must operate in compliance with applicable environmental laws and regulations (including permitting and registration requirements) of this state as well as federal and local requirements in order to obtain the Brownfield tax benefits. The approval of these credits is also limited to the "net state economic benefit" as described in Section C14.
- 2) **Eligibility to earn Brownfield Tax Benefits:** The eligible project must create at least 10 new jobs or retain 25 jobs or combination thereof.

AND

Each eligible business (taxpayer) at the project must create at least 2 new jobs or retain at least 25 jobs and have a minimum of \$100,000 in “new qualified investment.”

No Brownfield tax benefits will be provided until the eligible project documents, to the satisfaction of DED, the creation of at least 10 new jobs, or retention of 25 jobs, or combination thereof and the eligible business documents, to the satisfaction of DED, the creation of at least 2 new or retention of 25 jobs, as applicable.

The eligible project must operate in compliance with applicable environmental laws and regulations, including permitting and registration requirements, of this state as well as the federal and local requirements.

- 3) **Real Property Tax Abatement (Brownfield Tax Benefits):** In order to receive Brownfield tax benefits, the local government must provide real property tax abatement of 50% for a minimum of 10 years or tax increment financing (TIF).
- 4) **Income Tax Exemption (Brownfield Tax Benefits):** The taxpayer may also obtain the income tax exemption pursuant to section 135.220, RSMo, upon compliance with the Brownfield tax benefits provisions of this section. That portion of the taxpayer's income attributed to the eligible project, of which one-half (50%) is exempt pursuant to section 135.220, RSMo, shall be determined in the same manner as prescribed in section 135.100(6), RSMo.
- 5) **Amount of Brownfield Tax Credits Earned:** The amount of Brownfield tax credits will be provided to each eligible taxpayer as follows:
 - a) \$500 (for an existing business) or \$475 (new MO business) per year (for 1-10 years) for each new job;
 - b) \$400 per year (for 1-10 years) for each new job exceeding ten and each retained job exceeding twenty-five;

- c) \$400 per year (for 1-10 years) for each new job who is “a person difficult to employ” (unemployed for at least three months immediately prior to being employed at the eligible business); and,
- d) Investment tax credits (each year for 1-10 years) based on 10.1%* of the first \$10,000 of new qualified investment; 5.1%* on the next \$90,000 of new qualified investment; and 2.1%* of new qualified investment over \$100,000. (*Note: If the taxpayer were not an existing Missouri business, these percentages would be 10.075%; 5.075%; and 2.075% respectively.)

<p>Example of investment tax credits: For new qualified investment of \$10,000,000, the amount of tax credits earned would be \$213,500/year.</p>
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- 6) **Taxes to be Offset by Brownfield Tax Credits:** The Brownfield tax benefits shall be used to offset a portion of the tax imposed by chapter 143, RSMo (corporate and personal income taxes), excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or the tax otherwise imposed by chapter 147, RSMo, or the tax otherwise imposed by chapter 148, RSMo.
- 7) **Refund of Unused Brownfield Tax Credits:** In the event the taxpayer cannot use the entire amount of tax credits earned in the first 2 tax years, they can request a refund of up to \$50,000 (based on the credits earned in the first tax year) and up to \$25,000 (based on credits earned in the second tax year). To obtain the income tax refund for Brownfield tax benefits, the taxpayer must comply with the provisions of section 135.245 RSMo for application and use of the refund and the eligibility requirements of that section.
- 8) **Claim Period of Tax Benefits:** The taxpayer may claim Brownfield Tax Benefits for up to 10 consecutive tax years which are determined by the approval of DED. The Brownfield tax credits and the state income exemption may be claimed for 1-10 consecutive tax years. Unused Brownfield tax credits cannot be carried forward or backward, but shall be initially claimed for the tax period during which the eligible project was first capable of being used, and during any applicable subsequent tax periods. Any unused Brownfield tax credits that have been earned but not used in the appropriate tax period shall be canceled, except for up to \$75,000 in refunds for Brownfield tax benefits, as previously described.
- 9) **Transferability:** Brownfield tax credits are NOT transferable.

However, in the case where a business has been certified to claim Brownfield tax credits and sells or otherwise transfers title of the business to another taxpayer or assignee to claim the credits for a period of time to be determined by DED; except that, the total number of tax periods the tax credits may be earned by the assignor and the assignee shall not exceed ten. To perfect the transfer of the credits in such a situation, the assignor shall provide written notice to DED of the assignor's intent to transfer the tax credits to the assignee, the date the transfer is effective, the assignee's name, address, and the assignee's tax period, and the amount of tax credits to be transferred.

- 10) **Filing of Tax Credits:** Taxpayers claiming the Brownfield tax benefits shall be required to file all applicable tax credit applications, forms and schedules prescribed by DED during the taxpayer's tax period immediately after the tax period in which the eligible project was first put into use (first capable of being used as an eligible business by the taxpayer). Otherwise, the taxpayer's right to claim such state tax benefits shall be forfeited.
- 11) **Replacement Project Facility Restrictions:** In the case where an eligible project replaces a similar facility that closed elsewhere in Missouri prior to the end of the taxpayer's tax period in which the tax credits are earned, the owner or lessee shall provide DED with a written statement explaining the reason for discontinuing operations at the closed facility. The statement shall include a description of the activities performed at the closed facility prior to the date the facility ceased operating as compared to the activities performed at the eligible project, and a detailed account describing the need and rationale for relocating to the eligible project. If DED finds the relocation to the eligible project significantly impaired the economic stability of the area in which the closed facility was located, and that such move was detrimental to the overall economic development efforts of the state, DED may deny the taxpayer's request to claim tax benefits;
- 12) **Apportionment Limits:** In addition to the other limitations, the total amount of the Brownfield tax credits may not exceed the greater of (a) or (b):
- a) That portion of the taxpayer's income tax attributed to the eligible project; or,
 - b) One hundred percent (100%) of the total business' income tax if the taxpayer establishes a new facility and does not operate any other facilities in Missouri;
- However, the tax credits may not exceed (c) or (d):
- c) Fifty percent (50%) of the total business' income tax if the taxpayer expands an existing facility and does not operate any other facilities in Missouri; or
 - d) Twenty-five percent (25%) of the total business' income tax if the taxpayer operates, in addition to the eligible project, any other facilities in Missouri. In no case shall a taxpayer operating more than one eligible project in Missouri be allowed to offset more than twenty-five percent (25%) of the taxpayer's business income in any tax period.
- 13) **Non-Duplication of Tax Credit Programs:** No taxpayer shall earn the Brownfield tax credits, income exemptions or refunds otherwise allowed in the Brownfield program and the Enterprise Zone tax benefits or Business Facility tax credits otherwise allowed in section 135.110, 135.225, 135.215, 135.220 and 135.245, RSMo, for the same facility for the same tax period. No taxpayer shall earn the Brownfield tax credits, income exemptions, or refunds otherwise allowed in the Brownfield program and the Rebuilding Communities tax credits.
- 14) **Termination, Suspension, or Revocation of Tax Credits:** DED may terminate, suspend or revoke the tax credits and exemptions described in this program if the eligible project facility fails to continue to meet the conditions set forth in these guidelines. In making such a determination, DED shall consider the severity of the condition violation, actions taken to correct the violation, the frequency of any

condition violations and whether the actions exhibit a pattern of conduct by the taxpayer (owner or lessee). DED shall also consider changes in general economic conditions and the recommendation of the Department of Natural Resources concerning the severity, scope, nature, frequency and extent of any violations of the environmental compliance conditions, The qualified project facility owner or operator may appeal the decision regarding termination, suspension or revocation of any tax credit or exemption in accordance with the procedures outlined in subsection 4 to 6 of section 135.250, RSMo.

H. LOAN GUARANTEES *

- 1) **Basis for Guarantee:** If at least 3 qualified lenders are unwilling to finance the total amount of eligible project costs, DED may provide a partial guarantee of a loan to a lender, if other conditions herein are met. The lender must provide DED with the specific reasons why the loan was denied without a guarantee, and indicate the minimum percentage and amount of guarantee acceptable in order to provide the loan. DED may provide a partial guarantee if the borrower is a reasonable credit risk, and the possible loss is commensurate with the anticipated net state economic impact. The loan guarantee must be the least amount necessary to cause the project to occur.
- 2) **Maximum Guarantee:** The maximum guarantee is 70% of the loan, or \$1 million, whichever is less. (The maximum loan with a 70% guarantee is \$1,428,571). The guarantee amount is also limited to the net state economic impact, and must be less than the collateral value of assets secured, as measured by an appraisal of the completed project. (The \$1 million limit also includes any loan or grant funding for the eligible project.)
- 3) **3. Collateral:** The security for the loan may be senior or junior, however, the collateral value must be greater than the loan amount. The collateral value will be determined by an appraisal of the value of the facility upon the completion of the rehabilitation and remediation, plus other available collateral pledged by the owner, including personal guarantees. (The owner must pay for all such appraisals.) The unguaranteed portion of the loan cannot have additional security separate from the guaranteed portion of the loan.
- 4) **Defaults:** The lender must immediately notify DED of default on a guaranteed loan. If the default cannot be resolved, the lender will administer any foreclosure and liquidation of guaranteed loans, but significant actions must be jointly approved by DED. If the project facility is sold at less than the amount of the loan (to parties other than the lender), DED shall pay the agreed upon percentage on the deficit of unliquidated principal. If the project facility has not been sold for a period of at least two years from the date of a foreclosure acquisition, DED shall (upon written request by the lender) provide the lender the agreed to percentage of the amount of unliquidated principal, and title to the project facility shall revert to the original governmental agency owner. Such written request by the private lender shall describe the efforts made to sell the property and, to the extent known, the reasons the property is unable to be sold to a new buyer. Legal fees and liquidation costs may be included with the amount of unliquidated principal in the settlement of the guarantee, but not forgone interest or fees of the lender.
- 5) **Limits imposed on the Lender's Loan:** The lender may not impose an interest rate in excess of the prevailing prime rate plus 2% for the guaranteed loan, and the term of the guarantee may not exceed 120 months. The term of the loan is unrestricted, unless the loan has substantial deferral of principal or balloon payments.
- 6) **Approval of Guaranteed Loans:** DED may provide a guaranteed loan if, in the opinion of DED, the risk of default and resultant loss is commensurate with the

projected net state economic impact; the guarantee is a material factor in causing the eligible project to occur and causing the lender to approve the loan; the borrower has sufficient equity and collateral; the owner has demonstrated management capability; the borrower has an acceptable past credit history; and the projected cash flow exceeds debt service. The projected cash flow must be adequately documented.

- 7) **Fees:** If approved, the Borrower shall pay DED a fee of up to 2% of the guaranteed portion of the loan upon closing of the loan. The Borrower (or lender, if they desire) shall also pay DED an annual fee of 1/2% of the outstanding guarantee portion of the principal. In the event the annual fee is not paid, the guarantee commitment will be canceled.
- 8) **Immunity of Lender:** According to section 447.704.6, a lender shall be immune from any liability arising out of the performance of the project, including potential liability from the incomplete or unsuccessful remediation of the facility; its lender status by which it holds indicia of ownership primarily to protect its security interest; and any potential liability arising out of or under the environmental laws of this state pursuant to the protections of sections 427.011 to 427.041, RSMo.

I. LOANS *

- 1) **Purpose:** If at least 3 qualified lenders are unwilling to finance the total amount of eligible project costs, and will not accept a guarantee as described above, DED may provide a direct loan. The lender must provide DED with the specific reasons why the loan was denied without a guarantee, indicate the maximum amount of loan it would be willing to make, and the security it will require in order to make the loan. DED may provide a direct loan if the borrower is a reasonable credit risk; the possible loss is commensurate with the anticipated net state economic impact, and a lender is unwilling to make a loan even with a partial guarantee by this program. It is anticipated the most appropriate use of a loan would be for construction financing, which would be taken out by a private lender upon completion of the rehabilitation and remediation. The loan must be the least amount necessary to cause the project to occur.
- 2) **Maximum:** The maximum loan for any eligible project will be 50% of the eligible project costs, or \$1 million, whichever is less. (The \$1 million limit includes any loan guarantee or grant funding for the eligible project.) The loan is also limited to the "Net State Economic Impact," and must be less than the collateral value of assets secured.
- 3) **Collateral:** The security for the loan may be senior or junior, however, the collateral value must be greater than the Brownfield loan amount. The collateral value will be determined by an appraisal of the completed facility after the rehabilitation and remediation, plus other available collateral of the borrower including personal guarantees. (The borrower must pay for all such appraisals.)
- 4) **Defaults:** DED will administer any foreclosure and liquidation of direct loans.
- 5) **Interest Rate, Term:** Interest rate of loans will be 2% above the current prime rate as established in the Wall Street Journal, or 1% above the rate provided to the borrower by the senior lender for the eligible project, whichever is greater. Rates will be adjusted annually based on the current prime rate. The term of the loan will be no greater than 10 years for new machinery and equipment or real estate; however, the term cannot be more than or longer than that of the senior lender. However, it is anticipated that, due to limited funds, the primary use of loan funds would be for construction period loans. Longer-term loans are likely to be a smaller percentage of the project cost.
- 6) **Use of Loan Proceeds:** Loan proceeds can be used for "allowable costs," which are primarily new fixed assets relating to the eligible project. Inventory, working capital, or other operating costs, except those specifically noted in Section C (3), are ineligible for funding.
- 7) **Basis for Approval of Loan:** The borrower must be unable to finance the full amount of necessary eligible project costs. The borrower must have been rejected for the full amount of the loan request from at least 3 qualified lenders (even if DED offered such lenders a guarantee on some portion of the loan). Also, other applicable sources of debt or equity have been exhausted in the opinion of DED. The basis of DED's approval of a loan will be that the borrower is a reasonable credit

risk; the risk is commensurate with the projected net state economic impact of the eligible project; the loan is a material factor in causing the eligible project to occur, in that other possible sources of financing have been exhausted; the borrower has sufficient equity, demonstrated management capability, adequate collateral, and an acceptable past credit history; and the projected cash flow exceeds debt service.

- 8) **Fees:** If approved, the Borrower shall pay DED a fee of up to 2% of the loan at closing.

J. GRANTS *

- 1) **Grant for Public Capital Improvements:** DED may make a grant to a governmental agency to support the eligible project if the owner is unable to finance the entire cost of the eligible project through ordinary financial channels upon comparable terms, and further, a lender is unwilling to make a loan even with a loan guarantee.
- 2) **Approval:** The department may provide a grant to a governmental agency if, in the opinion of DED, there is a positive projected net state economic impact; the grant is a material factor in causing the eligible project to occur; the prospective purchaser has secured sufficient financing to complete the eligible project; and other applicable sources of funding have been exhausted.
- 3) **Disbursement of Grant Funds:** Prior to the disbursement of an approved grant, the owner must have executed the financing agreements necessary to complete the eligible project. Funds will be provided to the governmental agency grantee on a reimbursement basis. Copies of paid invoices and a copy of the check must be submitted to DED for payment. Grant funds will not be used for costs incurred prior to the approval of the funding by DED.
- 4) **Use of Grant Funds:** Grants may be provided only to governmental agencies for "Public Capital Improvements" (as defined) which are necessary to support the eligible project. Grant funds shall not be used to hire or pay additional employees of the recipient governmental agency, or for operating/maintenance costs. Grant funds may not be used to reimburse for costs incurred prior to DED's approval of an application for Public Capital Improvements.
- 5) **Due Diligence Incentive Match:** As an incentive for a prospective owner to purchase a Brownfield property from a public entity, DED may provide a 50% matching grant (up to \$100,000) to a governmental agency for the purposes of market feasibility studies, environmental review, a site characteristic plan as required by DNR, and/or cost estimates related to the possible redevelopment of a project facility that has been (or is likely to have been) contaminated with hazardous substances. The grant funds (or matching funds) may not be for preliminary or final engineering or architectural design, legal agreements to purchase the project facility, or other costs that are unrelated to determining the feasibility of redeveloping a project facility. The other 50% (which must be cash, and may not be in-kind services) may be from the prospective owner, the governmental agency, or other resources.

Environmental specialists must perform the due diligence, which may not be the prospective owner. Grant funds may not be used for costs incurred by parties other than a governmental agency, or for costs incurred prior to DED's approval of the availability of grant funding. Funds also may not be used to pay new employees of the governmental agency/grantee. Remediation tax credits may not be claimed for any matching funds under this section.

The following criteria must be met to qualify for the 50% matching grant funds:

- a) A governmental agency must conduct the due diligence and will retain any reports or findings from such work;
- b) The subject property must be an eligible project, as defined herein.
- c) The property must be owned by a public entity (privately owned properties are ineligible).
- d) The due diligence activity may not commence prior to DED's approval of the grant request. (Funds may not be used for costs incurred prior to the approval..)

All such information from this report shall be the property of the governmental agency/grantee. In the event the prospective owner decides not to proceed with the redevelopment of the project, the governmental agency may use the reports to entice other parties to redevelop the eligible project.

K. IMMUNITY / LIABILITY

- 1) **Terms:** As used in section 447.712, RSMo, the following terms shall mean:
 - a) "Harm", injury, damage, restitution, death or loss to persons or property, including equitable damages or injunctive relief, caused by or arising out of exposure to a hazardous substance or petroleum at the location of the eligible project, but shall not include harms arising from other causes even if the harm occurs on the remediation site;
 - b) "Tort action", a civil action for harm, as defined in this subsection, including an action for recovery for costs of conducting a voluntary remediation as part of a eligible project, but does not include a civil action for damages for a breach of contract or another agreement between a governmental agency and one or more persons, or for breach of an express warranty contained in such agreement.
- 2) **Immunity:** A governmental agency, any officer or employee thereof, and the owner are immune from liability and are not liable in a tort action resulting from, or arising out of, performance of an eligible project, including harm inflicted in the performance of any voluntary remediation associated with the eligible project. This immunity shall extend to acts, and failures to act, of the governmental agency and its officers and employees which are required by law or authorized by law as necessary or essential to the exercise of the powers and duties described in sections 447.700 to 447.718. This immunity shall also include the actions or failures to act which were within the discretion of an officer or employee of the governmental agency with respect to policy-making, planning, implementation or enforcement responsibilities under sections 447.700 to 447.718. This immunity of the governmental agency and its employees and the prospective purchaser shall also include any actions and failures to act by the eligible project contractors, subcontractors, suppliers or materials as it may apply to performance of the voluntary remediation. The tort immunity described in this subsection shall cease upon issuance by the department of natural resources of written approval of the completed voluntary remediation.
- 3) **Exceptions to Immunity:** The immunity described in this section shall not apply to acts or failures to act of a governmental agency or its officers and employees which were:
 - a) Manifestly outside the scope of employment, duties or responsibilities; or
 - b) Committed maliciously, in bad faith, or in a wanton and reckless manner.
- 4) **Tort Liability Exemption:** No state, county or municipal government or any agency, officer or employee thereof shall be liable in tort or under the state's environmental laws for the ownership of real or personal property acquired by foreclosure upon or acceptance of a deed in lieu of foreclosure pursuant to a defaulted loan issued under section 447.702, RSMo or repurchase and reversion of the property to the original governmental agency owner under subsection 6 of section 447.704, RSMo, provided the agency did not directly cause or contribute to the cause of the new contamination. Such state, county or municipal governments or agencies thereof shall receive the creditor protections afforded financial institutions under sections 427.011 to 427.041, RSMo.

- 5) **Owner Liability Release:** For any eligible project, the owner shall be released from further liability to the extent described in this section based upon the voluntary remediation work actually performed and consistent with the level of risk to human health and the environment remaining after performance of the voluntary remediation activities to remedy the existence of hazardous substances on the property, the release of which occurred prior to the date of acquisition.
- 6) **Department of Natural Resources:** For any eligible project, the Department of Natural Resources shall:
 - a) Issue a letter requiring no further action from an owner who has performed a Phase I and Phase II environmental site assessments, as defined at 10 CSR 25-15.010 (2)(A)7 and 8, which demonstrate that no remedial action is necessary to protect the public health and welfare and the environment;
 - b) Issue a letter requiring no further action from an owner who has performed voluntary remediation action, as part of a eligible project, pursuant to the requirements of sections 260.565 to 260.575, RSMo, the owner certifies to the department of natural resources that the goals of the owner's voluntary remediation plan have been attained, attainment of the remediation plan goals is verified by the department and, when completed, the voluntary remediation does not treat all hazardous substances present to levels below regulatory action levels due to use of alternative clean up goals, risk reduction solutions, institutional controls, including, but not limited to, use restrictions contained in the deed or other alternative actions. The department of natural resources shall not issue a no further action letter unless the voluntary remediation activities significantly restore, in whole or in part, the environment so as to minimize the harmful effects from a release of a hazardous substance to acceptable risk levels;
 - c) Provide a covenant not to sue to an owner who has performed voluntary remediation action, as part of an eligible project, pursuant to the requirements of sections 260.565 to 260.575, RSMo, the owner certifies to the department of natural resources that the remediation goals have been attained, attainment of the remediation goals is verified by the department and, when completed, the voluntary remediation has treated all hazardous substances of concern to levels below then existing regulatory action levels; or
 - d) To receive a covenant not to sue from the department of natural resources, the corrective action plan must be submitted for public comment and a public hearing must be held by the department after not less than thirty days' notice to determine the effectiveness of the remedy for the intended use of the eligible project. The public hearing shall be held in a community where the eligible project is located.
- 7) **Owner Immunity of Liability:** Upon successful completion of a voluntary remediation action, as part of an eligible project, the owner shall be immune from liability in a civil action brought by any third party to recover clean-up costs, response costs or other legal or equitable damages, including costs of restitution. Such immunity shall not apply to the failure to remediate hazardous substances in

accordance with the voluntary remediation action site plan, statutes and regulations or the failure to operate the facility in compliance with applicable federal, state and local environmental statutes, regulations and ordinances.

- 8) **Exceptions of Owner Immunity:** The department of natural resources shall not release the owner for liability arising from, or associated with:
- a) Conditions not identified or addressed in the voluntary remediation action work
 - b) Contamination or violations caused or contributed to by the owner after acquiring the abandoned property; except that, this shall not include contamination existing prior to acquisition of the abandoned property or releases of those prior existing contaminants occurring in the course of performing the voluntary remediation activities; and
 - c) Unknown hazardous substance contamination or conditions at the time of performance of the eligible project, including the voluntary remediation activities.
- 9) **Report of Violations:** Any taxpayer who operates an eligible project facility shall properly report any event or condition which may be suspected to affect or violate any statute, regulation, ordinance, permit condition or order to the affected agency and shall act to investigate all suspected events or conditions with reasonable promptness not to exceed thirty (30) days. The taxpayer shall resolve or initiate appropriate efforts to correct any events or conditions that may constitute or lead to a violation.

L. DNR VOLUNTARY CLEANUP PROGRAM

- 1) **Department of Natural Resources (DNR):** The Division of Environmental Quality of DNR administers the “Voluntary Cleanup Program” (also known as the Hazardous Substances Environmental Remediation Program). DNR provides oversight of the cleanup actions and an approval once the remediation has been completed. Upon that approval, the owner and any lenders are immune from further liability, unless they cause new hazardous waste after the approval is made.
- 2) **Voluntary Cleanup Program procedure:** For more information on DNR’s Hazardous Substances Environmental Remediation Program, call 573/536-8913.
 - a) Environmental assessments are done on commercial and industrial property as part of most property transfers. These assessments, often required by the lending institution, result from the liability provisions of the federal Superfund law.
 - b) If hazardous contamination is found, property owners frequently request guidance from the Missouri Department of Natural Resources (DNR) in cleaning up the site. The Hazardous Substances Environmental Remediation Law provides DNR with the resources and the authority to provide such oversight.
 - c) The owner (“applicant”) contacts DNR. DNR provides the applicant with forms (Intent to Participate Agreement and Consent for Access to Property) and instructions.
 - d) The applicant completes and returns both forms and a \$200 application fee. DNR reviews the forms for completeness and regulatory authority and notifies the applicant of acceptance status within 90 days.
 - e) DNR and the applicant enter into an “Oversight Agreement.”
 - f) The applicant posts a deposit, not to exceed \$5,000, with DNR and submits within 90 days of notification a Phase I Assessment and records of any other environmental investigators.
 - g) Within 180 days, DNR reviews and determines if further site assessment work or remediation is needed.
 - h) Applicant submits remedial action work plan within 90 days. DNR reviews and approves the remedial action plan within 90 days.
 - i) Applicant implements the approved plan and schedule with DNR oversight. Oversight can include document review, collecting or splitting samples and field activities to observe remedial actions.
 - j) Applicant provides quarterly progress reports on DNR forms and a final report once the cleanup is completed.
 - k) Applicant reimburses DNR for all oversight costs. The application fee and the deposit, which will be deposited into the Hazardous Waste Fund, will be drawn against first. If oversight costs are more than these initial participation fees, DNR will bill the applicant quarterly for the additional costs. If oversight costs are less

than the initial participation fees, DNR will reimburse the remainder to the applicant.

- l) DNR issues a notice of completion (also called a “clean letter”) when the cleanup meets the remedial action plan requirements or when it is determined that no remedial action is required.
- m) Applicants can withdraw participation at any time by providing DNR with written notification by certified mail. DNR can terminate applicants from the environmental remediation program for causes as outlined in the law.
- n) Applicants can appeal any DNR action to the Hazardous Waste Management Commission within 30 days of the action. Appeals must be submitted in writing to DNR by certified mail.

M. MISCELLANEOUS

- 1) **Confidentiality:** DED is authorized to keep business plans and other confidential information closed to the public under Section 620.014, RSMo. The information that may be publicly disclosed is:
 - a) The name of the owner, operator, and lessees; type of businesses of the owner, operator, and/or lessees; location of the eligible project; the number of new jobs or retained jobs;
 - b) Amount of the tax credits, guaranteed loans (and name of lender), loans, or grants approved; and,
 - c) Net state economic impact of the eligible project.

For more information regarding the Brownfield Redevelopment Program and other business financing sources, contact:

Missouri Department of Economic Development

Brownfield Program Administrator

P.O. Box 118

Jefferson City, MO 65102

(573) 522-8004

Fax: (573) 522-9462

e-mail: cd@ded.mo.gov

Web: <http://www.ded.mo.gov>

Missouri Department of Natural Resources

Voluntary Cleanup Program

Hazardous Waste Section

P.O. Box 176

Jefferson City, MO 65102-0176

(573) 526-8913

Fax: (573) 526-8922

Web: <http://www.dnr.mo.gov>



Brownfield Redevelopment Program

**Missouri Department of Economic
Development**

Missouri Department of Natural Resources

Application Checklist

For Remediation tax credits; Brownfield tax benefits; Loan Guarantee; Direct Loan; and/or Grant Funding

NOTE: The owner may submit a loan application from a bank, SBA (either 7a or 504 Programs), or similar loan application, however, **ALL** the information below must be included. It would be preferable to provide the information in the order below. Refer to the Brownfield Program Guidelines for definitions and rules. There are no deadlines for the submission of an application. Applications may be submitted to the **Missouri Department of Economic Development, Redevelopment Section, P.O. Box 118, Jefferson City, MO 65102. Please submit 2 copies. Also submit a copy of the Voluntary Cleanup Program application to the VCP Section, Hazardous Waste Programs, MO Department of Natural Resources, P.O. Box 176, Jefferson City, MO 65102-0176.**

Section A: Program Eligibility

Submit the following and Exhibit A and B to determine if the subject property is an "Eligible Project": Further information will be required (as specified below), depending on the type of financial assistance requested.

_____ **1. Eligible Project Description:** Briefly describe the proposed eligible project, including the name of the past owner(s) (and operators, if other than the owner), and the nature of the use(s) of the abandoned property by the prior owner(s) for the previous 5 years. Provide information on any pending or completed lawsuits against the former owner(s) as it relates to the contamination of the abandoned property.

_____ **2. Abandoned or Underutilized:** Provide documentation that the property has been vacant for the previous 3 years or that less than 35% of the space is being utilized. (See guidelines and definitions for more detail.)

_____ **3. Current Owner:** Provide the name of the current owner of the property, the date which the operations ceased and the facility was completely vacated (must be at least 3 years ago) or documentation that the property qualifies as "underutilized." Provide a certified copy of the warranty deed.

_____ **4. Prospective Owner:** Provide the legal name of the entity that proposes to purchase the property; federal identification number; contact person and title; address, city, state, zip, telephone number and fax number of contact person. Indicate the legal organization of the prospective owner (C or S Corporation, LLC, state of incorporation, year established, headquarters address if different from contact person's address.) Indicate the status of a sales contract for the abandoned or underutilized property, the proposed sales price, and the estimated date of the sale. Provide a copy of the proposed or completed sales contract, if available.

_____ **5. Location of the Property:** Indicate the street address of the abandoned or underutilized property. Provide a map (showing local streets) and a legal description to identifying the eligible project site. Indicate the square footage of the abandoned or underutilized property.

_____ **6. Eligible Business:** Indicate the intended uses of the abandoned or underutilized property. (Exhibit B should be completed by each proposed business to occupy the property.) Indicate the primary SIC code of the operator or committed lessees.

_____ **7. Stockholders of Owner:** Provide a listing of all stockholders (or members of an LLC) of the prospective owner with their respective percentage of ownership. If any of the stockholders/members are NOT a US citizen, or are presently under indictment, parole, or probation, or have been convicted of any criminal offense other than a minor motor vehicle violation, it must be noted. Failure to do so could result in rejection of assistance, and if approved, repayment of all assistance plus penalties, and possible criminal prosecution. (See Exhibit A.)

_____ **8. Delinquent Taxes:** State whether the owner, operator, or lessee has any delinquent state, federal, or local taxes, and if so, what actions are being taken to correct the problem. Indicate whether any delinquent taxes are under a payment agreement with a taxing authority.

_____ **9. Lawsuits:** Provide information on any pending or completed lawsuits against the prospective owner or lessee, or major stockholders of the owner or lessees that may affect the viability of the business, including the names of the parties, nature of the complaint, status of the lawsuit, settlements completed, verdicts rendered, amount and terms of disposition or settlement, etc.

_____ **10. Voluntary Cleanup Program (VCP):** Provide documentation of acceptance into the Voluntary Cleanup Program at the Department of Natural Resources. An applicant may also submit a copy of the application sent to VCP.

*** Section B: Due Diligence 50% Matching Grant**

Submit the following if the governmental agency requests assistance in funding the due diligence of an eligible project: (Maximum grant funding- \$100,000, to be matched 1-1.) Section A must have been submitted and declared an eligible project by DED before Section B may be submitted for review. A due diligence grant may only be provided for publicly owned properties.

_____1. Provide a letter from the chief executive of the governmental agency indicating their willingness to participate in the due diligence of the proposed project, as per the Brownfield Program Guidelines (section K5). Indicate whether the governmental agency must procure such services from a public bid, or whether such services will be procured in a negotiated transaction.

_____2. Provide a letter from the source of the matching funds indicating their commitment to contribute the match to the governmental agency for the due diligence.

_____3. Indicate the projected total cost, proposed scope of work (feasibility study, environmental review, and/or cost estimate of the proposed project), and the proposed starting and ending date of such work.

SECTION C: Request for Remediation Tax Credits

Submit the following if Remediation Tax Credits are requested for an eligible project.

_____ **1. Estimates:** Provide three estimates for the cost of remediation. Three bids should be submitted and the chosen estimate should be noted. Any remediation costs incurred prior to DED and DNR's approval will be ineligible.

_____ **2. Lessees** (if applicable): Provide a list of committed or prospective lessees and the type of business of each. Indicate the lease term, lease rate, and square footage used for each. Describe the status of lease execution and a contact person (with telephone number) of prospective lessees.

_____ **3. Eligible Project Uses of Funds:** Provide a description of the proposed use of funds for the eligible project (including the sources of cost estimates) as certified by a licensed architect or a professional engineer. Separately identify the capital and ongoing operating costs to be incurred related to the remediation of hazardous substances at the proposed project. Include a sources of funds not only for the remediation, but also for the entire project.

_____ **4. Eligible Project Sources of Funds:** Provide a detailed description (name, term, rate, amount and collateral requirements) and PROOF of all proposed or approved sources of financing for the eligible project, and the status of approval for each source. Include a sources of fund not only for the remediation, but also for the entire project. If there is bank financing, provide documentation from the bank verifying debt and equity amounts. Also provide copies of proposals and applications submitted to banks for financing. Justify the amount of Remediation tax credits requested, based on the limitations and requirements set forth in the Program Guidelines, Sections D and E. Indicate the approved amount or the likelihood of use of other State and Federal development incentives. Also, please supply documentation from entities that are guarantying the financing for this project.

_____ **5. Appraisal:** Provide a copy of an appraisal of the abandoned or underutilized property (if there is bank financing, provide a copy of the appraisal given to the bank) by a certified appraiser.

_____ **6. Least Amount Necessary:** Document that the Remediation tax credits is the "least amount necessary to cause the project to occur" through an internal rate of return analysis. Refer to defined term #13 on page 9.

_____ **7. Year-end and Current Financial Statements:** Provide a copy of year-end financial statements (balance sheet, income statement) of the borrower (and parent companies or subsidiaries) for the 2 prior fiscal years, and current (less than 60 days old) interim financial statements of the current fiscal year. Provide tax returns for the past 2 years if the financial statements are unaudited.

_____ **8. Projected financial statements:** Provide 5-10 years of projected financial statements, including cash flow statements and a pro forma. Include a detailed justification of the projections and note any significant variation compared to past financial statements. The projections must include the proposed sources of financing and uses of funds as identified herein.

_____ **9. Existing Loans/Leases:** For each existing loan or capital lease to the borrower, indicate the name of the lender, current balance, original amount and date, maturity, amortization, interest rate, monthly payment, collateral securing the loan, and status (current or delinquent). For lines of credit, indicate the maximum terms of drawdowns, such as 80% of receivables and 50% of inventory.

_____ **10. Owner Compensation:** Indicate the current and proposed amount of compensation (salaries, dividends, fees, bonuses or other withdrawals not including reimbursement of business expenses) to stockholders/members of the borrower and relatives.

SECTION D: Request for Demolition Tax Credits

Submit the following if Demolition Tax Credits are requested for an eligible project.

- _____ **1. Estimates:** Provide estimates of the costs of non-remediation demolition.
- _____ **2. Need:** Provide justification for the need of these credits (see #5 in Section C if not requesting Remediation tax credits).
- _____ **3. Redevelopment Plan:** Submit a copy of the redevelopment plan approved by the municipal or county government. DED will then review this plan. The plan must include the demolition costs being requested for reimbursement by tax credits.

SECTION E: Request for Brownfield Tax Benefits

Submit the following if Brownfield Tax Benefits are requested for an eligible project. Section A must have previously been approved.

_____ **1. Lessees** (if applicable): Provide a list of committed or prospective lessees and the type of business of each. Indicate the lease term, lease rate, and square footage used for each. Describe the status of lease execution and a contact person (with telephone number) of prospective lessees.

_____ **2. Brownfield Tax Benefits:** Also, indicate the number of years (between 1-10) requested for the Brownfield tax benefits, and a justification of such.

_____ **3. Local Government Participation:** Documentation or a copy of the ordinance showing that the local government is provided real property tax abatement for at least 50% for a minimum of 10 years or tax increment financing (TIF).

*** SECTION F: Requests for Loan Guarantee or Direct Loan Funds by an Owner:**

(Note: Some of these questions may not be relevant if the owner will not conduct business operations at the abandoned or underutilized property.) Section A must have been approved prior to the submission of Section D. Section C must be submitted at the same time as Section D.

_____ **1. Appraisal:** Provide an appraisal (based on projected as-completed value) of the proposed project by a certified appraiser.

_____ **2. Amount of Funding Request:** Indicate the amount of direct loan or guarantee funds requested by the owner for eligible project costs. The amount requested must correspond with the sources and uses in Section C (3,4). (If applying for a Guaranteed Loan, the Lender must complete Exhibit C. The owner must have been rejected from at least 3 sources of financing for the full amount of the eligible project to qualify for a loan guarantee or direct loan, and generally, the owner must have been rejected for guaranteed loans before the consideration for a direct loan is made.) Indicate the date of rejections for loans and a copy of the lender's written response. If the response was not written, indicate the name and telephone number of the lender's contact person.

_____ **3. Ownership:** For each stockholder (or member of an LLC) of the borrower that has more than 25% of stock ownership, provide a personal financial statement (using SBA or Robert Morris Associates format) that is less than 90 days current, plus their social security number, current address, and date of birth. (Note: A credit check will likely be done on the major stockholders/members of the owner, and the submission herein provides permission for DED to request a credit check of all stockholders/members.) If any of the stockholders/members have filed bankruptcy within the past 10 years, it must be so noted with information regarding any resolution or other actions thereof.

_____ **4. Year-end and Current Financial Statements:** Provide a copy of year-end financial statements (balance sheet, income statement) of the borrower (and parent companies or subsidiaries) for the 2 prior fiscal years, and current (less than 60 days old) interim financial statements of the current fiscal year. Provide tax returns for the past 2 years if the financial statements are unaudited.

_____ **5. Projected financial statements:** Provide 2 years of projected financial statements, including monthly cash flow statements. Include a detailed justification of the projections and note any significant variation compared to past financial statements. The projections must include the proposed sources of financing and uses of funds as identified herein.

_____ **6. Existing Loans/Leases:** For each existing loan or capital lease to the borrower, indicate the name of the lender, current balance, original amount and date, maturity, amortization, interest rate, monthly payment, collateral securing the loan, and status (current or delinquent). For lines of credit, indicate the maximum terms of drawdowns, such as 80% of receivables and 50% of inventory.

_____ **7. References:** Provide the names of at least 4 business references and their telephone numbers and mailing addresses. Indicate the primary bank of the borrower, and the loan officer responsible.

____ **8. Violation of Other Agreements:** State whether any proposed leases or loans would violate any existing agreements or loans, or if so, what actions are necessary to obtain permission.

____ **9. Affiliates:** Names of affiliated (through common ownership or management control) or subsidiary businesses of the borrower. Provide the past 2 fiscal year-end financial statements and a current (less than 90 days) financial statement for each of these firms.

____ **10. Impacted Missouri Competitors:** Indicate any known Missouri companies that directly compete with the operator or lessees which will be adversely impacted by this eligible project.

____ **11. Owner Compensation:** Indicate the current and proposed amount of compensation (salaries, dividends, fees, bonuses or other withdrawals not including reimbursement of business expenses) to stockholders/members of the borrower and relatives.

____ **12. Management:** Provide the names of the borrower's management, their titles, areas of responsibilities, and a resume of key management. Indicate which, if any, key management positions have not been filled, or will be outsourced to a professional firm.

____ **13. History/Competition:** Describe the products/services currently sold by the borrower, and if new products or services are proposed for this eligible project, also provide a description. Indicate the primary competitors, their percentage of the market, and the competitive advantages and disadvantages of the borrower.

____ **14. Receivables/Payables:** Aging of accounts receivable and accounts payable (amount current, 30-60 days, 60-90 days, and over 90 days). It must be noted whether any accounts payable are under litigation for payment.

____ **15. Sales:** Listing of 5 largest (in sales volume) current customers of the borrower, with the amount of sales in the past 12 months. Also, state any significant contracts or purchase orders recently obtained (and the amount and terms), and, a list of significant existing customers that will be lost in the next 12 months.

____ **16. Least Amount Necessary:** Document that the loan or loan guarantee is the "least amount necessary to cause the project to occur." Refer to defined term #13 on page 9.

****SECTION G: Requests for Grant Funds for Public Capital Improvements***

(Note: Grant funds may only be provided to a governmental agency for public capital improvements. This section must be submitted in conjunction with a governmental agency that will own the improvements.)

_____ **1. Uses of Funds:** The governmental agency that would be the recipient of grant funds must provide a letter endorsing this request. Specify the proposed uses of funds for public capital improvements related to the eligible project. Describe the need for each item and its relationship to the completion of the eligible project and a cost estimate for each item, as certified by a professional engineer. If any proposed item requires an action of a state or local agency, indicate the status of such action.

_____ **2. Sources of Funds:** Identify the proposed sources (and amount thereof) of funds for all public capital improvements related to the eligible project, and the status of each source (except for the grant funds requested in this application). The governmental agency that is responsible for each item must provide information regarding its inability to provide complete funding for this request.

SECTION H: Exhibits:

- _____ 1. **Exhibit A: Certification of Prospective Owner**
- _____ 2. **Exhibit B: Projected State Economic Benefit**
- _____ 3. **Exhibit C: Lender's Request for a Loan Guarantee**
- _____ 4. **Exhibit D: DNR Voluntary Cleanup Program Application**
- _____ 5. **Exhibit E: Applicant's Certification of Program Guidelines and Statutes**
- _____ 6. **Exhibit F: Certification of Alien Employment**